

## H E R R I C K

NEW YORK  
NEWARK  
PRINCETON

M. DARREN TRAUB  
Direct Tel: 212.592.1578  
Direct Fax: 212.545.2307  
Email: dtraub@herrick.com

May 11, 2009

VIA ELECTRONIC DELIVERY

M. Douglas Haywoode, Esq.  
71 Maple Street  
Brooklyn, New York 11225-5001

Re: *Edmonds v. Seavey, et al.*; USDC, Southern District of New York; Civil Action No. 08-CV-5646

Dear Mr. Haywoode:

As you are aware, in his Order of May 6, 2009 (the “Order”), the Honorable James C. Francis awarded the defendants their costs, including attorneys’ fees, incurred as a result of your “unjustified cancellation of the deposition of Phyllis Seavey.” Although you obviously have a right to challenge the Order, we hope that our fees in connection with this issue will be “contained” and will not be increased through further proceedings in connection herewith. Thus, pursuant to the Order, we hereby request that you reimburse the Seavey Defendants a total of **\$3454.00**, based on the following costs and fees incurred as a result of your failure to proceed with the deposition as scheduled:

- Preparation of Phyllis Seavey for deposition - 1.3 @ \$475/hr\* = \$617.50
- E-mail correspondence with Mel Haywoode re: cancellation of deposition - .3 @ \$475/hr = \$142.50
- Prepare for and attend deposition of Phyllis. Seavey = 1.0 @ \$475/hr = \$475
- Prepare motion and declaration requesting sanctions = 3.5 @ \$475/hr and .7 @ \$795/hr = \$2219.00.

Please send us a check in the total amount by Thursday, May 14, 2009 at noon (our application for fees is due Friday, May 15, 2009). If we do not have a check by that time, we will assume that you prefer to pursue this particular issue further and, pursuant to the Order, we will submit an application for our award and will seek reimbursement of the costs and fees incurred in making that application. Additionally, in such case, we will also seek reimbursement for further fees that we may incur in connection herewith.

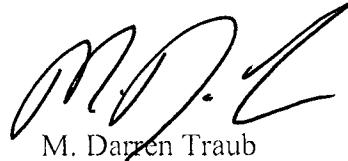
\* My time is billed at \$475 per hour and Scott Mollen’s time has been billed at \$795 per hour. As you can see, Mr. Mollen’s time has been relatively minimal with regards to this issue.

H E R R I C K

M. Douglas Haywoode, Esq.  
May 11, 2009  
Page 2

We sincerely hope that you will agree that our fees are reasonable, they should be reimbursed, and we should all move on with the other aspects of the litigation.

Very truly yours,



M. Darren Traub

cc: William J. Kelly, Esq.